

Exhibit A

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

NATIONAL OILWELL VARCO, L.P.
Plaintiff,

v.

JULIO GARZA
Defendant.

Civil Action No. 4:22-cv-02006

**DECLARATION OF JARED J. BRAITHWAITE IN SUPPORT OF
NON-PARTY ARRAY TECH, INC.'S RESPONSE TO PLAINTIFF NATIONAL OILWELL
VARCO, L.P.'S EMERGENCY MOTION FOR FORENSIC EXAMINATION PROTOCOL**

I, Jared J. Braithwaite, declare as follows:

1. I am a Partner with the law firm of Foley & Lardner LLP and am counsel for non-party Array Tech, Inc. ("Array"). I make this declaration of my own personal knowledge and based on records maintained by Foley & Lardner LLP in the ordinary course of business, to which I have access and upon which I rely in the course of performing my duties to Foley & Lardner LLP and its clients, including Array.

2. Upon receiving notice of the lawsuit filed by Plaintiff National Oilwell Varco, L.P. ("Varco") against Array and Defendant Julio Garza, I immediately sent correspondence to Varco's counsel seeking to discuss the issues raised by Varco's state court lawsuit. A true and correct copy of my email to Varco's counsel, dated June 4, 2022, is attached hereto as **Exhibit A-1**.

3. During my early conferences with Varco's counsel immediately following, Array sought to cooperate with Varco, and I disclosed to Varco's counsel that the USB drive at issue had been connected to an Array laptop and that one filename on Array's laptop matched a filename from Exhibit C to Varco's state court lawsuit regarding files allegedly on the relevant USB drive. Both I and Varco's counsel confirmed that the matching filename was with respect to public

engineering information regarding stress-strain curve equations from a standards organization (ASME).

4. In the two weeks following the filing of the state court lawsuit, I repeatedly asked Varco's counsel to provide search terms to search Array's computing devices for potentially relevant documents for production. As of June 16, 2022, Varco's counsel had not provided any search terms to me to search for relevant documents on Array's computing devices. A true and correct copy of my email to Varco's counsel regarding Array's repeated invitations for Varco to provide search terms and request documents, dated June 16, 2022, is attached hereto as **Exhibit A-2**.

5. Before the scheduled preliminary injunction hearing against Array, on June 20, 2022, Varco dismissed Array as a party to the state court lawsuit.

6. Between dismissal of Array from the state court lawsuit on June 20, 2022 and the hearing in this matter in federal court on June 29, 2022, Varco did not subpoena or make any written requests to Array for discovery. My phone records indicate that I may have spoken to Varco's counsel during that time period, and Varco may have asked whether Array would cooperate in discovery. If such a call occurred, I would have communicated, as I had many times before, that Array would cooperate in discovery and asked for particular document requests from Varco.

7. Varco's counsel left me a voicemail message late on Friday, July 1, 2022. Varco's counsel asked whether Array would generally cooperate in discovery. I responded to Varco's counsel after the 4th of July weekend, early in the morning on July 5, 2022. In my July 5, 2022 email to Varco's counsel, I again requested that Varco provide a specific description of the

documents that it wanted produced. A true and correct copy of my July 5, 2022 email to Varco's counsel is attached hereto as **Exhibit A-3**.

8. On Saturday, July 9, 2022, Varco's counsel sent me a proposed forensic protocol asking Array to surrender Array's computing devices to a third party, Pathway Forensics, which to that point Varco had not disclosed to Array. A true and correct copy of Varco's Saturday, July 9, 2022 email to me is attached hereto as **Exhibit A-4**.

9. Varco's weekend email also demanded that Array agree to the proposal by noon Central Time on Monday, July 11, 2022. I and Array's headquarters are located in the Mountain Time Zone, and some management of Array is conducted in the Pacific Time Zone. Varco's weekend demand to respond by noon Central Time gave Array only about 2 business hours to respond.

10. I responded to Varco as requested by noon Central Time on Monday, July 11, 2022. A true and correct copy of my July 11, 2022 email to Varco's counsel attaching a response letter is attached hereto as **Exhibit A-5**, and a true and correct copy of my July 11, 2022 letter to Varco's counsel is attached hereto as **Exhibit A-6**.

11. I conferred with Varco's counsel for over an hour on July 11, 2022. Varco's counsel agreed to consider a list of proposed search terms for Array to use to search for and produce documents from its computing devices as opposed to surrender of its devices to a third-party. A true and correct copy of my July 11, 2022 email to Varco's counsel memorializing our conversation is attached hereto as **Exhibit A-7**.

12. Varco's counsel did not provide me with a list of search terms for Array to use to search for and produce responsive documents from Array's computing devices. To date, Varco's counsel has not provided such a list to me despite repeated invitations for it to do so. Instead of

providing a list of search terms, on July 12, Varco's counsel sent me a subpoena directed to Array with compliance requested in under 3 days at Array's New Mexico headquarters. A true and correct copy of the July 12, 2022 subpoena to Array, dated July 12, 2022 is attached hereto as **Exhibit A-8**.

13. I sent a letter to Varco's counsel regarding the subpoena on July 13, 2022. A true and correct copy of my July 13, 2022 letter to Varco's counsel is attached hereto as **Exhibit A-9**.

14. After Varco's counsel received my letter, I conferred again with Varco's counsel, at which time Varco's counsel agreed to withdraw the subpoena to Array. Varco also agreed to work with Array, to request the production of documents from Array, and to provide a list of search terms for Array to use to search for and produce documents from its computing devices. I informed Varco's counsel that I would be leaving on a vacation scheduled for July 20–25, 2022, and I urged Varco's counsel to provide me with the document requests and list of search terms before my scheduled vacation. A true and correct copy of Varco's email withdrawing the subpoena to Array, dated July 13, 2022, is attached hereto as **Exhibit A-10**.

15. After conferring on July 13, 2022, Varco counsel did not make any request of Array until I spoke with Varco's counsel on July 26th. During that call, Varco's counsel did not provide any specific document requests but again demanded surrender of Array's computing devices.

16. I declare under the penalty of perjury of the laws of the United States that the foregoing is true and correct to the best of my knowledge.

Dated: August 1, 2022.

By: /s/ Jared J. Braithwaite
Jared J. Braithwaite